

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579**

IN THE MATTER OF THE CLAIM OF

REBEKA SAULEDA

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU -1930

Decision No. CU 4884

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by REBEKA SAULEDA for \$17,500.00 based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant has been a national of the United States since her nationalization in 1955.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant describes her loss as follows:

One-half interest in improved real property in Havana	\$15,500.00
One-half interest in furniture and equipment therein	<u>2,000.00</u>
	\$17,500.00

The record discloses that claimant inherited an interest in the property subject of this claim upon the death of her mother, Adolfina Sanchez Vera, who died in 1956. Her father, Primitivo C. Miranda Martinez, is not a national of the United States.

Based upon the entire record, including a copy of a document dated December 6, 1958 which recites the total satisfaction of the mortgage encumbering the property, the Commission finds that claimant's parents each owned a one-half interest in the real property subject of this claim.

Upon the death of claimant's mother in 1956, pursuant to the Cuban laws of descent and distribution, her interest was inherited by claimant subject to her father's life estate in one-third of her mother's estate.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that claimant's interest in real property in Havana was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes, in support of the claimed values, a description of the realty as a 3-story building located at 305 Trocadero Street, Havana, measuring about 280 square meters, constructed of block and solid concrete roof and consisting of about 27 rooms with usual facilities. The record further discloses that the purchase price in 1952 was \$24,000.00 and that the mortgage of \$16,000.00 was satisfied on December 6, 1958. Claimant states that when the property was purchased in 1952 it had only two stories and that subsequently a third floor was added at a cost of \$9,000.00.

Based on the entire record, including evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that the value of the real property, including the added improvements, was \$33,000.00 on the date of loss.

As indicated above, claimant's one-half interest in the property was encumbered with a life estate as to one-third thereof in favor of her father. According to the evidence of record claimant's father was 69 years old at the time of taking on October 14, 1960. Therefore, the value of his life estate interest in the property must be determined.

The Commission has adopted as a basis for valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest

rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F. R. 4547, 26 C.F.R. 2031-7.) According to the method of valuation, a life estate in property so encumbered is valued at .28552 of the entire estate, and the remainder interest is valued at .71448 of the entire estate. Therefore, since the value of one-sixth of the property in question is \$5,500.00, the life estate thereon is valued at \$1,570.36, which is .28552 of that amount.

The Commission therefore finds that a one-half interest in the real property which was taken by the Government of Cuba had a value of \$16,500.00; the value of claimant's father's life estate therein was \$1,570.36 and claimant's remainder interest had a value of \$14,929.64.

With regard to the portion of this claim based on the loss of personalty assertedly in the building, no evidence has been submitted to support this item of the claim although suggestions have been made to claimant. The Commission is therefore constrained to hold that claimant has not established this portion of her claim, and accordingly it is denied for failure to meet the burden of proof.

In view of the foregoing, the Commission concludes that claimant suffered a loss in the amount of \$14,929.64 within the meaning of Title V of the Act as a result of the taking of her property by the Government of Cuba.


The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

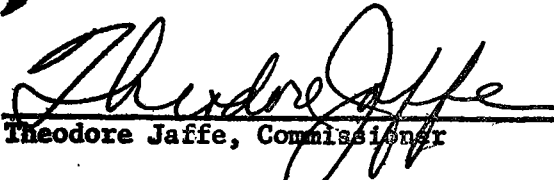
CERTIFICATION OF LOSS

The Commission certifies that REBEKA SAULEDA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fourteen Thousand Nine Hundred Twenty-nine Dollars and Sixty-four Cents (\$14,929.64) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAY 20 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

CE: Pursuant to the Regulations of the Commission, if no objections filed within 15 days after service or receipt of notice of this proposed Decision, the decision will be entered as the Final Decision of Commission upon the expiration of 30 days after such service or receipt notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)